

Biden Acts to Ensure Pharmaceutical Competition, Fair Prices

Today, Attorney General Beau Biden announced the settlement of a civil lawsuit against Barr Pharmaceuticals. The suit charged the company with antitrust violations that have prevented generic versions of the popular contraceptive Ovcon? from reaching the marketplace. The settlement, involving 34 states and the District of Columbia, prevents Barr from entering into certain anti-competition agreements and requires the company to pay \$5.9 million in penalties and fees.

“Today we stood up for consumers against greed,” stated Attorney General Joseph R. Biden, III. “These illegal activities forced Delawareans to pay more for a drug when a lower-priced version could have been available. Keeping the generic drug off the market stifled the kind of healthy competition that can keep prices low, and that is unacceptable. The Delaware Department of Justice will use all of its authority to ensure competition and protect consumers’ access to affordable products.”

The lawsuit, filed in 2005 in the U.S. District Court for the District of Columbia, alleges that pharmaceutical manufacturer Warner Chilcott paid Barr a total of \$20 million to keep it from marketing a generic version of Ovcon?. According to the lawsuit, Ovcon? has been sold in the United States since 1976 and Warner Chilcott became its exclusive U.S. distributor in 2000.

In early 2003, Barr announced that it would introduce a generic version of Ovcon? by the end of that year. The states’ lawsuit alleges that Warner Chilcott paid Barr \$1 million in an agreement designed to prevent Barr’s generic product from

being offered to consumers. According to the suit, after Barr obtained approval by the U.S. Food and Drug Administration to market its drug, Warner Chilcott paid an additional \$19 million to Barr in order to keep its drug off the market.

Delaware and the participating states sought fines and a court order to prevent Barr from engaging in similar behavior. Today's agreement:

- Requires Barr to pay \$5.9 million nationwide in penalties, costs, and fees. Delaware will receive more than \$80,000, which will be paid to the state's Consumer Protection Fund.
- Prohibits Barr from entering into similar anti-competitive agreements in the future.

The states previously settled a separate suit against Warner Chilcott in June, 2007.

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